

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JIMMIE STEPHENS,

Plaintiff,

v.

J. SHAFFER, et al.,

Defendants.

No. 2:24-cv-1785 DC CSK P

ORDER

Plaintiff is a state prisoner proceeding pro se. On March 3, 2025, the Court recommended that plaintiff's motion to proceed in forma pauperis be denied, and plaintiff be ordered to pay the filing fee in full to proceed with this action. (ECF No. 11.) On March 10, 2025, plaintiff filed objections, and the findings and recommendations are now before the district court.

On April 9, 2025, plaintiff filed a document styled, "Emergency Request," citing Rule 60(b) of the Federal Rules of Civil Procedure. (ECF No. 15.) However, plaintiff's request is premature. The district court has not yet ruled on the findings and recommendations, so there is no order to reconsider. Therefore, plaintiff's request is denied. Further, plaintiff appears to seek reconsideration of the finding that plaintiff did not qualify for the imminent danger exception to the 28 U.S.C. § 1915(g) three strikes bar, now claiming he faced imminent danger based on an incident that took place on March 20, 2025. (ECF No. 15 at 1.) However, as the pending findings and recommendations explained:

1 An inmate who accrues three strikes is precluded from proceeding in
2 forma pauperis unless he is “under imminent danger of serious
3 physical injury.” 28 U.S.C. § 1915(g). To satisfy the exception,
4 plaintiff must have alleged facts that demonstrate that he was “under
5 imminent danger of serious physical injury” **at the time of filing the**
6 **complaint.** Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir.
7 2007) (“[I]t is the circumstances at the time of the filing of the
8 complaint that matters for purposes of the ‘imminent danger’
9 exception to § 1915(g).”). “[T]he imminent danger exception to the
10 PLRA three-strikes provision requires a nexus between the alleged
11 imminent danger and the violations of law alleged in the complaint.”
12 Ray v. Lara, 31 F.4th 692, 695 (9th Cir. 2022).

13 (ECF No. 11 at 2-3) (emphasis added). This action was filed on June 25, 2024. (ECF No. 1.)
14 Therefore, an incident that took place on March 20, 2025, after plaintiff filed this action, could
15 not constitute imminent danger at the time plaintiff filed the complaint in this action.

16 The findings and recommendations are before the district court for review. Plaintiff
17 should refrain from filing any further documents until the district court addresses the pending
18 findings and recommendations.

19 Accordingly, IT IS HEREBY ORDERED that plaintiff’s request (ECF No. 15) is denied.

20 Dated: April 14, 2025

21 
22 CHI SOO KIM
23 UNITED STATES MAGISTRATE JUDGE

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